

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE ST. PAUL CITY COUNCIL

In re the License Renewal Application
of New Money Express, Inc.

**FINDINGS OF FACT,
CONCLUSIONS, AND
RECOMMENDATION**

The above-entitled matter came on for hearing by Administrative Law Judge Kathleen D. Sheehy, serving as Hearing Officer for the St. Paul City Council, on November 20, 2003, at 10:00 a.m. in Room 42 of the Ramsey County Courthouse. There were no post-hearing submissions. The OAH record closed on the date of the hearing.

Virginia D. Palmer, Assistant City Attorney, 400 City Hall, 15 West Kellogg Boulevard, St. Paul, MN 55102, appeared on behalf of the City's Office of License, Inspections and Environmental Protection (LIEP). Frank A. Dvorak, Esq., Foley & Mansfield, 250 Marquette Ave., Suite 1200, Minneapolis, MN 55401, appeared for the licensee, New Money Express.

This report is recommendation, not a final decision. Under the St. Paul Legislative Code Section 310.05 (c)(c-1), the City Council will provide the licensee the opportunity to present oral or written argument to the city council before it takes final action. The parties should contact the St. Paul City Council to determine the procedure for presenting argument.

STATEMENT OF ISSUE

Should the currency exchange license of New Money Express be renewed without conditions?

The Administrative Law Judge concludes that the license should be renewed without conditions.

Based upon all the proceedings herein, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. On October 1, 2003, the Department of Commerce forwarded the Licensee's application to renew its currency exchange license at 785 East Seventh Street in St. Paul to LIEP.^{[\[1\]](#)}

2. On October 9, 2003, LIEP provided notice to nearby neighborhood organizations of the license renewal application and advised the organizations that if objections were received, the matter would be scheduled for a hearing.^[2]

3. LIEP also notified the Licensee that objectors had 15 days after being notified to object to the license renewal.^[3]

4. On October 16, 2003, LIEP published notice of the license renewal application in the St. Paul Legal Ledger and invited objections.^[4]

5. LIEP received a letter dated October 24, 2003, from the St. John Evangelical Lutheran Church and Christian Day School. The Church objected to renewal of the license on the basis that (1) the business attracts unlicensed street vendors who operate in the area where parents pick up their children at the end of the school day, and (2) the property was often filled with garbage because there were no trash receptacles on the premises.

6. The City issued a Notice of Hearing in the matter on November 7, 2003, which set the hearing date and time for November 20, 2003 at 10:00 a.m. at the Ramsey County Courthouse. The Notice of Hearing was served by mail to Bonnie Schoenberg, General Counsel of New Money Express, Inc., at 550 Frontage Road, Suite 3785, Northfield, IL 60093.

7. The trash the church complains about is not generated by the business operation of New Money Express but is either garbage left behind by customers or garbage that blows into the parking lot of New Money Express from other locations nearby. Since receipt of the church's objection, New Money Express has installed two trash containers on the boulevard adjacent to the property.^[5]

8. The street vendors the church complains about mainly sell clothing out of vehicles parked near New Money Express. The vendors target customers of New Money Express and anyone else who is nearby, including members of the church.^[6] Various neighbors as well as employees of New Money Express have called the police to stop the peddling by unlicensed vendors. The vendors no longer park in the New Money Express parking lot, having moved across the street to park in front of the church.^[7]

9. The Dayton's Bluff Community Council failed to provide timely written notice of its objections to renewal of the license. It has the same concerns as expressed by the church, and in addition objects to the behavior of some customers who loiter in the parking lot and sometimes audibly use profanity.^[8] The Community Council would like the City to condition renewal of the license on the employment of off-duty police officers on Fridays and around the first of every month to "keep people moving."^[9]

9. LIEP recommends approval of the license without conditions because the objections raised are not tied to the business operations of the licensee. LIEP does not believe there is any legal basis for disapproving the license renewal or placing conditions on the license.

10. Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

1. The St. Paul City Council and the Administrative Law Judge have jurisdiction in this matter pursuant to St. Paul Legislative Code §§ 310.05, 310.06, and 381.02; and Minn. Stat. § 14.55.

2. The City of St. Paul has fulfilled all relevant, substantive and procedural requirements of law and rule.

3. The City of St. Paul has given proper notice of the hearing in this matter, including proper notice in accordance with the requirements as set forth in Minn. Stat. § 53A and Section 381 of the Legislative Code of the City of St. Paul.

4. Section 381.03(b) of the St. Paul Legislative Code provides, in relevant part, that the following constitute grounds for disapproval of an application:

(1) Violation of any provision of the state currency exchange law contained in Chapter 53A.

(2) Any one (1) or more of the reasons, conditions, or standards for adverse action under section 310.06 of the Legislative Code.

. . .

(4) (ii) The existing currency exchange has caused significant adverse consequences or impacts upon the neighborhoods within three hundred (300) feet of the exchange.

5. Under section 310.01 of the St. Paul Legislative Code, “adverse action” against a license is defined as revocation or suspension of a license, the imposition of conditions upon a license, or the denial of an application for the grant, issuance or renewal of a license, the imposition of a fine, the assessment of the costs of a contested hearing, and any other disciplinary or unfavorable action taken with respect to a license. It includes disapproval of licenses issued by the state under statutory provisions which permit the governing body to disapprove the issuance of the license.

6. Section 310.06(b) of the Code provides, in relevant part, that the council may take adverse action against a licensee or applicant based on one or more of the following reasons:

(6)a. The licensee or applicant (or any person whose conduct may by law be imputed to the licensee or applicant) has violated, or performed any act which is a violation of, any of the provisions of these chapters or of any statute, ordinance or regulation reasonably related to the licensed activity, regardless of whether criminal charges have or have not been brought in connection therewith;

b. The licensee or applicant has been convicted of a crime that may disqualify said applicant from holding the license in question under the standards and procedures in Minnesota Statutes Chapter 364; or

c. The licensee or applicant (or any person whose conduct may by law be imputed to the licensee or applicant) has engaged in or permitted a pattern or practice of conduct of failure to comply with laws reasonably related to the licensed activity or from which an inference of lack of fitness or good character may be drawn.

(7) The activities of the licensee in the licensed activity created or have created a serious danger to the public health, safety or welfare, or the licensee performs or has performed his or her work or activity in an unsafe manner.

(8) The licensed business, or the way in which such business is operated, maintains or permits conditions that unreasonably annoy, injure or endanger the safety, health, morals, comfort or repose of any considerable number of members of the public.

7. The record does not demonstrate any violation of ordinance or statute justifying adverse action against the license of New Money Express.

8. Because the record demonstrates no violation of ordinance or statute, there is no legal basis for adverse action against the license of New Money Express in the form of placing conditions upon the license.

9. Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS HEREBY RESPECTFULLY RECOMMENDED that the St. Paul City Council approve the renewal of the currency exchange license held by New Money Express for the premises located at 785 Seventh Street East in St. Paul.

Dated this 24th^t day of November, 2003.

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s/Kathleen D. Sheehy
KATHLEEN D. SHEEHY
Administrative Law Judge

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NOTICE

Pursuant to Minn. Stat. § 53A.04, the St. Paul City Council is required to forward its approval or disapproval of the license application to the Commissioner of Commerce of the State of Minnesota for the Commissioner's approval or disapproval. If the renewal application is denied, the Commissioner shall mail notice of the denial and the reasons therefor to the applicant. The applicant, upon denial, may request a further hearing as provided for in Minn. Stat. § 53A.04(b).

MEMORANDUM

Despite the concerns voiced by the church and the community council, there is no evidence in the record to substantiate a violation of any city ordinance or state statute by New Money Express. The issues raised appear to be more in the nature of problems common to the neighborhood as opposed to problems associated with the way New Money Express does business. Only one neighborhood resident, the church, filed a timely written objection to renewal of the license. The record simply does not support the conclusion that New Money Express has caused significant adverse impacts upon the neighborhood as a whole or that the business permits conditions that are unreasonably annoying or injurious to a considerable number of members of the public.

K.D.S.

^[1] Ex. 1.

^[2] Exs. 2 and 3.

^[3] Ex. 4.

^[4] Ex. 5.

^[5] Testimony of the Rev. Jeremy Glowicki.

^[6] *Id.*

^[7] *Id.*

^[8] Testimony of Karin DuPaul; Ex. 8.

^[9] Testimony of Karin DuPaul.